

REMARKS

Claims 1-6, 9-10, and 12-24 are pending in this Application. By this amendment, claims 5-6, 9-10, and 12-19 are amended; claims 7-8 and 11 are canceled; and claims 20-24 are added. Upon request, Applicants' attorney will provide a copy of the pending claims with inserted subject matter indicated by italics.

The preamble of claims 5-6, 9-10, 12-17, and 19 are amended to recite "a transport unit" rather than "a transport container" to avoid confusion with "a container," subsequently recited as a limitation in the foregoing independent claims. Applicant respectfully submits that reciting "a transport unit," rather than "a transport container," does not narrow the scope of any of the amended claims.

Claim 5 is further amended to recite "the container comprising a plurality of container walls," in lieu of of "the container having a plurality of walls," to more particularly point out and distinctly claim the subject matter Applicant regards as the invention, inter alia avoiding confusion with "door walls" also recited therein. Claim 5 is yet further amended to recite "two parallel door walls," in place of "two walls," to more particularly point out and distinctly claim the subject matter Applicant regards as the invention, viz. to avoid confusion with "container walls," discussed supra. Claim 5 is still further amended to recite "movable," thereby correcting the spelling thereof and to recite "a moved-in end position" and "a moved-out end position" in lieu of "a moved-in end state" and "a moved-out and state," to provide antecedent basis for limitations recited subsequently. Claim 5 is still yet further amended to recite "each of said plurality of locking elements comprising a projection from a plate with a pair of opposed edges, each of said plurality of locking elements directed to one of said plurality of recesses in said container wall, each said plate pivotally connected to a common drive in the form of a rotatable

disk by a connecting ride, each said plate fixed in the moved-in end position in the moved-out end position by one of said connecting rods." Claim 5 is yet still further amended to recite "a pair of parallel couplers pivotally mounted to one of the door walls and to each of said plate edges such that each of said plates is parallel to the door walls, whereby the penetration of each of said locking elements into one of said plurality of recesses is effected along a curved path."

Claim 9, in addition to the amendment discussed above, is amended to recite "each said locking element is rotatably coupled to one of said couplers."

Claim 10, in addition to the amendment discussed above, is amended to recite "each of said plurality of displacing elements has two ends with one end of each displacing element rotatably connecting to the rotatable disk and the other end coupled to the locking element."

Claim 12, in addition to the amendment discussed above, is amended to recite "a pair of parallel spaced apart door walls," "first and second plates, each of said first and second plates comprising a locking element extending therefrom and first and second opposed edges." Claim 12 is still further amended to recite "each of said locking elements extendable out of the door to engage a recess in the container, at least one of said locking elements extending in a first locking element direction and at least one other of said locking elements extending in a second locking element direction to engage the recesses in the container, the first locking element direction generally opposite to the second locking element direction." Claim 12 is yet further amended to recite "a rotatable disk and a plurality of connecting rods, the rotatable disk in rotatable mechanical communication with each of the locking elements via the connecting rods." Claim 12 is still further amended to recite "first and second parallel couplers pivotally attached to each edge of each of said plates, each of said couplers having two ends, one end of each of said couplers attached to and rotatable about a first coupler axis at one of the parallel walls and the

other end of each of said couplers attached to and rotatable about a second coupler axis generally parallel to the first coupler axis and proximate one of said locking elements, said first and second couplers attached to the first plate axially extending in a first coupler direction and said first end second couplers attached to second plate axially extending in a second coupler direction different from the first coupler direction such that the locking elements remain generally parallel to said door walls and are displaced outwardly in a curved path."

In addition to the amendment described above, claim 13 is amended to recite "wherein each of the plates is coupled to the rotatable disk."

In addition to the amendment described above, claim 14 is amended to recite "wherein the connecting rod extends between the disk and the plate."

In addition to the amendment described above, claim 16 is amended to recite "a pair of parallel door walls;" "a plurality of plates with lateral edges, a shared drive, and a plurality of parallel couplers pivotally attached to each plate lateral edge, each plate comprising a locking element projecting from the plate, a shared drive comprising a disk rotatable by a motor and rotatably mechanically connected to each of said plurality of plates by a connecting rod, each of said plurality of locking elements extendable out of the door by the shared drive for penetration into one of a plurality of recesses in the container, each of said plurality of couplers further pivotally attached to one of said door walls such that each of said plurality of locking elements remains parallel to one of said door walls as each of said plurality of locking elements is displaced along a curved path between a moved-in end position and a moved-out end position in which the locking element is disposed in and presses against a surface of one of said recesses."

Claim 17, additionally to the amendment discussed above, is amended to recite "each of said couplers is rotatably connected to one of the walls along a first axis parallel to the wall and

each of said couplers is further rotatably connected at the locking elements with a second axis parallel to the first axis."

In addition to the amendment described above, claim 18 is amended to recite "having a pair of parallel door walls and a locking and unlocking arrangement disposed between the pair of door walls;" "the locking and unlocking arrangement comprising a plurality of projections and a disk rotatable by a motor and in mechanical communication with each of said plurality of projections, each of said plurality of projections extending from a plate having opposed edges and held operably parallel to the door walls by a plurality of parallel couplers, each of said plurality of couplers pivotally attached to one of said door walls and further pivotally attached proximate each of said plate opposed edges;" "the projections each movable in a curved path between a moved-in state and a moved-out state by a cooperation between the disk and couplers;" and "wherein the projections remain substantially parallel to said door walls."

Claim 18, in addition to the amendment described above, is amended to disclose "a pair of parallel door walls and a locking and unlocking arrangement disposed between the pair of door walls;" and "the locking and unlocking arrangement comprising... a disk rotatable by a motor and in mechanical communication with each of said plurality of projections, each of said plurality of projections extending from a plate having opposed edges and held operably parallel to the door walls by a plurality of parallel couplers, each of said plurality of couplers pivotally attached to one of said door walls and further pivotally attached proximate each of said plate opposed edges, the projections each movable and a curved path between a moved-in state and a moved-out state by a cooperation between the disc and couplers... wherein the projections remain substantially parallel to said door walls."

In addition to the amendment described above, claim 19 is amended to recite "a door to

sealably close the container;" "the door comprising a pair of parallel door walls;" "each said locking element projecting from a plate and extendable out of the door to engage a recess in the container and pivotally affixed to one of the door walls by a plurality of parallel couplers such that each of said plurality of locking elements is functionally parallel to the door walls, at least one of said plurality of locking elements extending in one direction and at least one other of said plurality of locking elements extending in an opposite direction;" "a plurality of connecting rods;" and "the rotatable disk coupled to said plurality of plates by the connecting rods so as to simultaneously extend at least one of said locking elements in one direction and another of said plurality of locking elements in an opposite direction, each said locking element extended along a curved path."

Support for new claims 20-24 can be found, e.g., in Figures 2a and 2b.

Applicant respectfully submits that no new matter has been added by the amendments to the pending claims. In view of the foregoing amendments, Applicant respectfully requests reconsideration and allowance of all pending claims.

#### Claim Objections

The Office Action objected to claim 18, stating that "said container" in the preamble thereof should be changed to "a container." The preamble of claim 18 has been amended to recite "a container" and the Examiner is respectfully requested to withdraw the objection.

#### 35 U.S.C. § 102

In paragraph 4, the Office Action rejected claims 5, 6, 9-11, 16, 18, and 19 as anticipated by U.S. Patent 4,995,430 to Bonora ("US 430"). Applicant respectfully traverses this rejection.

US 430 discloses a sealable transportable container having an improved latch mechanism. The improved latch mechanism uses latch plates 101, a cam mechanism 103, and latch plate supports 105. The second stage of the collecting operation disclosed in US 430 involves pivoting latch plates 101 on latch plate supports 105, the pivoting caused by the cam mechanism 103.<sup>1</sup>

By contrast, claim 5 (as amended) discloses "a plurality of parallel couplers pivotally mounted to one of the door walls and to each of said plate edges such that each of said plates is parallel to the door walls." US 430 discloses a completely different mechanism; hence, fails to disclose or suggest the foregoing limitation in claim 5. Because US 430 fails to disclose or suggest the foregoing limitation in claim 5, Applicant respectfully submits that claim 5 is not anticipated by US 430. Claims 6 and 9-10 depend from claim and 5. Hence, Applicant respectfully submits that claims 6 and 9-10 are not anticipated by US 430, as well.

Claim 16 (as amended) recites "a plurality of parallel couplers pivotally attached to each plate... each of said plurality of couplers further pivotally attached to one of said door walls such that each of said plurality of locking elements remains parallel to one of said door walls as each of said plurality of locking elements is displaced along a curved path." As shown above, US 430 neither discloses nor suggests this limitation. Because US 430 neither discloses nor suggests the foregoing limitation, Applicant respectfully submits that US 430 does not anticipate claim 16.

Claim 18 (as amended) recites "each of said plurality of projections...held operably

<sup>1</sup> See, US 430, column 7, line 5 et seq. ("The two-stage rotary cam latch mechanism 80 of the present invention includes first and second latch plates 101<sub>1,2</sub>, a cam mechanism 103 pivotally mounted on box door 32, and latch plate supports 105<sub>1,6</sub>. The operation of latch mechanism 80 is a two-stage operation which is illustrated in FIGS. 4-7 and 10-11. In the first stage of operation, cam mechanism 103 slides latch plates 101<sub>1,2</sub> linearly, and in the second stage, cam mechanism 103 causes latch plates 101<sub>1,2</sub> to pivot on latch plate supports 105<sub>1,6</sub>."); column 7, line 37 et seq. ("The second stage of the latching operation involves substantially vertical motion of latch fingers 110<sub>1,8</sub>. "Vertical motion" refers to motion in a direction perpendicular to the plane of box door 32, and to the plane of motion of latch plates 101<sub>1,2</sub> during the first stage of the latching operation. The motion of latch fingers 110<sub>1,8</sub> during the second stage engages latch fingers 110<sub>1,8</sub> with respective ones of latch engaging surfaces 112<sub>1,8</sub>, and creates a latching and/or clamping force which sealably mates a first sealing surface of box 20 with second sealing surface of box door 32."); Figures 10-11.

parallel to the door walls by a plurality of parallel couplers." As shown above, US 430 fails to disclose or suggest the foregoing limitation recited in claim 18. Because US 430 fails to disclose or suggest the foregoing limitation recited in claim 18, Applicant respectfully submits that US 430 does not anticipate claim 18.

Claim 19 (as amended) recites "each said locking element projecting from a plate ... and pivotally affixed to one of the door walls by a plurality of parallel couplers such that each of said plurality of locking elements is functionally parallel to the door walls." As shown above, US 430 fails to disclose or suggest this limitation. Therefore, Applicant respectfully submits that claim 19 is not anticipated by US 430.

In view of the foregoing, Applicant respectfully requests withdrawal of this anticipation rejection.

#### Reissue Applications

In paragraph 5, the Office Action asserted that the reissue oath/declaration filed with the instant application to be defective (37 C.F.R. § 1.175 and MPEP § 1414) because "multiple errors are described generically and does not specifically describe how the errors are corrected by the amendment." The Office Action suggested that a new oath/declaration be provided that individually lists each error in the patent to be corrected by amendment. Applicant respectfully traverses that the reissue oath/declaration is defective. Applicant need only specify one error upon which correction by reissue is requested. Applicant is not required to state how the error(s) will be corrected by amendment in the reissue oath. However, Applicant will consider submitting a supplemental oath/declaration upon allowance of all pending claims.

In paragraph 6, the Office Action stated that "the original patent, or a statement as to loss

or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 C.F.R. 1.178." Applicant will submit either the original patent or a statement as to loss or inaccessibility of the original patent before allowance of the present reissue application.

In paragraph 7, the Office Action stated that

[t]he non-Final Office Action (Paper No. 13) rejected claims under 35 USC 102(b) in view of U.S.P.N. 3,421,471 to Richter, including Examiner's statement that claimed container door's 'spaced walls' did not patently define from the perpendicularly-arranged walls of the reference's container and otherwise indicating claim limitations being anticipated by the prior art. In response to that rejection, the independent claim 9 was amended to include terminology of 'and parallel' to further define the container door's walls' arrangement. ... Applicants' arguments filed with that amendment specifically indicate that Applicant relies on the new limitation in order to patently define from the prior art: see page 4 of Applicant's response (Paper Number 15) filed June 25, 1999.

Paragraph 7 further asserts that "[t]he claim was additionally amended at that time to specifically require that the claimed means for locking and unlocking the claimed container door was located between the two 'parallel' walls. Paragraph 7 yet further asserts that "Applicants' arguments filed with that amendment specifically indicate that Applicant relies on the new limitation in order to patently define from the prior art: see page 4 of Applicant's response (Paper Number 15) filed June 25, 1999."

Paragraph 7 yet further states that "[t]he claim was additionally amended at that time to specifically require specific structural arrangement of claimed locking elements, plates, rotatable



disk, and motor: ... Applicants' arguments filed with that amendment specifically indicate that Applicant relies on the new limitation in order to patentably define from the prior art: see page 4-5 of Applicant's response (Paper number 15) filed June 25, 1999."

Paragraph 7 still further states that "[t]he claim was additionally amended at that time to specifically require other structural features of the 'means for providing a curved path' including particulars of that claimed element including its arrangement as regards each of the plurality of plate structures and couplers... Applicants' arguments filed with that amendment specifically indicate that Applicant relies on the new limitation in order to patentably define from the prior art: see page 5 of Applicant's response (Paper Number 15) filed July 25, 1999."

Paragraph 7 still yet further states that

[p]age 6 of Applicant's arguments filed with that amendment (Paper Number 15) of June 25, 1999, indicates that Applicant also relies on the above amendments and each of the specific arguments to overcome the other prior art rejections including rejection under 35 USC 103 in view of Richter '471 and additionally Richter '471 in view of U.S.P.N. 1,929,341 to Wegner. As applied against the 35 USC 102 rejections and again against the 35 USC 103 rejections, the arguments relating allowability to each amendment are specifically stated in Applicant's remarks. Consequently the claim(s) was allowed including statement by the Examiner that it was the combination of all claim limitations that could not be reconstructed for purpose of prior art rejection less improper use of hindsight, essentially in agreement with Applicant's arguments and conclusion as to teachings of the prior art and allowability of the claim(s) at hand. Inasmuch as the above indicate the limitations are a result of amendment specifically directed at

overcoming prior art rejections, particularly as indicated by Applicant's amendments relating the subject matter of the amendments to the allowability of the invention, that subject matter has been surrendered.

Paragraph 7 concludes by asserting "[c]laims 5-19 do not include the above limitations and are in effect, broadened in that respect and do not include the subject matter which was surrendered in the original application in order to obtain the Patent. However, a reissue will not be granted to 'recapture' claimed subject matter which was surrendered in an application to obtain the original patent."

In paragraph 8, the Office Action rejected claims 5-19 under 35 USC § 251 as being improper recapture of broadened claimed subject matter. Applicant respectfully traverses this rejection. However, in order to advance the present Application, Applicants have amended the pending claims as described above.

Specifically, each of the independent rejected claims has been amended to recite "parallel door walls." Applicant maintains that reciting "a locking and unlocking arrangement positioned between the two door walls" recites implicitly that the locking and unlocking arrangement is positioned between two parallel door walls.

Each of the rejected independent claims has also been amended to recite "parallel couplers."

Applicant has amended claim 5 as described above. With the exception of the "motor" asserted as a necessary inclusion in paragraph 7 of the Office Action, all claim limitations asserted as required to avoid "recapturing surrendered subject matter" has been amended into claim 5. To this end, Applicant notes that reissue claims materially narrower - despite having

broadened aspects - are allowable.<sup>2</sup> Applicant submits that claim 5 is amended to be materially narrower by reciting "a plate with a pair of opposed edges" and "each of said plurality of couplers pivotally mounted to... one of said plate edges." Because claim 5 is materially narrower, Applicant respectfully submits that claim 5 is allowable.

Applicant respectfully notes that claim 12 recites "first and second plates... comprising... first and second opposed edges" and "first and second parallel couplers pivotally attached to each edge of each of said plates." Applicant further respectfully notes that claim 12 recites "said first and second couplers attached to the first plate axially extending in a first coupler direction and said first and second couplers attached to said second plate axially extending in a second coupler direction different from the first coupler direction." Applicant still further respectfully notes that claim 12 fails to recite a "motor;" however, claim 12 is submitted to be materially narrower in view of the foregoing limitations. Therefore, Applicant respectfully submits that claim 12 is in condition for allowance.

Claim 16 (as amended) recites, in part, "the door comprises a plurality of plates with

<sup>2</sup> See, *Ex parte Eggert*, 67 USPQ2d 1717, 1727 (Bd. Pat. App. & Inter. 2003) ("Thus, Hester certainly does not support the examiner's per se rule that "[a]fter the addition of a claim limitation to secure allowance of a patent, an attempt to subsequently obtain patent protection by reissuing the patent with one or more claims that do not contain that limitation is impermissible because this is not a [correctable] error" (request, page 3). On the contrary, Hester leaves open the possibility that such reissue claims may avoid the recapture rule where they are materially narrowed in other respects.... Thus, while the particular reissue claims in *Pannu* were held not to avoid the recapture rule, *Pannu* clearly also leaves open the possibility that reissue claims which have been broadened in an aspect related to surrendered subject matter may avoid the recapture rule if they are materially narrowed in other respects.... Accordingly, we decline to extract from the above-quoted language in *Pannu* a generalized rule that a reissue claim which omits a limitation relied upon during prosecution of the patent application is per se impermissible under the recapture rule, regardless of whether the claim has been materially narrowed in other respects compared to the surrendered subject matter."); *Hester Industries Inc. v. Stein Inc.*, 46 USPQ2d 1641, 1649-1650 (Fed. Cir. 1998) ("Finally, because the recapture rule may be avoided in some circumstances, we consider whether the reissue claims were materially narrowed in other respects. See, e.g., *Mentor*, ... 227 USPQ 2nd at 1525 ('Reissue claims that are broader in certain respects and narrower in others may avoid the effect of the recapture rule.'). *Clement*, ... 45 USPQ2d at 1165. For example, in *Ball* the recapture rule was avoided because the reissue claims were sufficiently narrowed (described by the court as 'fundamental narrowness') despite the broadened aspects of the claims. ... 221 USPQ at 296. In the context of a surrender by way of argument, this principle, in appropriate cases, may operate to overcome the recapture rule when the reissue claims are materially narrower in other overlooked aspects of the invention. The purpose of this exception to the recapture rule is to allow the

lateral edges, a shared drive, and a plurality of parallel couplers pivotally attached to each plate lateral edge." The foregoing limitation materially narrower than the subject matter asserted in the recapture rejection. Because claim 16 is materially narrower in this aspect, Applicant respectfully submits that claim 16 is in condition for allowance.

Claim 18 (as amended) recites "each of said plurality of projections extending from a plate having opposed edges and held operably parallel to the door walls by a plurality of parallel couplers, each of said plurality of couplers pivotally attached to one of said door walls and further pivotally attached proximate each of said plate opposed edges." The foregoing limitation is respectfully submitted to be materially narrower than the subject matter asserted in the recapture rejection. Therefore, Applicant respectfully submits that claim 18 is in condition for allowance.

Claim 19 (as amended) recites "the connecting rods and disc having a beyond dead center position for fixing the locking elements in a moved-in end position or a moved-out end position." Applicant respectfully submits that the foregoing amendment materially narrows the scope of claim 19. Because claim 19 is believed to be materially narrowed with respect to the subject matter asserted in the recapture rejection, claim 19 is respectfully submitted to be allowable.

In view of the foregoing amendments and for the foregoing reasons, Applicants respectfully request that the rejection asserting recapture subject matter be withdrawn.

#### Allowable Subject Matter

In paragraph 9, the Office Action allowed claims 1-5. Applicant assumes appreciatively that claims 1-4 are allowed in view of the Office Action Summary (PTO-326) and further in

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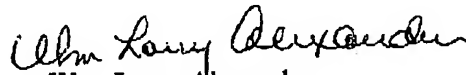
patentee to obtain through reissue the scope of protection to which he is rightfully entitled on such overlooked aspects.").

view of the rejections of claim 5 described above in the Office Action.

Conclusion

In view of the amendments to the Claims, Applicants believe that this Application is now in condition for allowance. If the Examiner feels that contacting the Applicants' Attorney via telephone would advance the prosecution of this case, the Examiner is invited to call the undersigned at the number given below.

Respectfully submitted,

  
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